Remarks/Arguments

Claims 1-12 are pending. Claims 1, 7, 11 and 12 have been amended to more clearly and distinctly claim the subject matter that applicants regard as their invention. No new matter is believed to be added by the present amendment.

Rejection of claims 1-12 under 35 USC 102(e) as being anticipated by Akiyama et al (US Pat. No. 5805699)

Applicants submit for the reasons discussed below that present claims 1-12 are not anticipated by Akiyama.

In order to better illustrate the difference between the subject matter of our claims and the teaching of Akiyama, applicants have prepared and attached an Annex showing examples of technical results obtained with the claimed invention (with schematic drawings) in comparison with results obtained with the teachings of Akiyama. Further applicants have amended claim 1 to more clearly recite the subject matter that applicants regard as their invention, including:

> formatting the digital data from said source of digital data using a function based on at least a serial number contained in said medium to obtain data formatted specifically for said medium, and to thereby prevent bit by bit duplication of the digital data onto another medium

Claims 7, 11 and 12 have been similarly amended. Applicants submit that Akiyama fails to teach or suggest each and every limitation of the amended claims.

In the 'Response to Argument' section of the Office Action, the Examiner first contends that "... *the features upon which the applicant relies (i.e. formatting using a key dependent on the serial number) are not recited in the rejected claim(s)."* Applicants submit that this is an incorrect reading of applicants' previous arguments, discussed, for example on page 5, 3rd paragraph of the response filed on December 15, 2005. Indeed, this paragraph states that "Akiyama does not disclose or suggest **formatting the software data using a function based on the target storage medium identifier, and recording the formatted data** onto a target storage medium." This corresponds to the feature recited in present claim 1. The applicants further explain that, even if it is considered that the <u>function</u>

used for formatting the data is the encryption function in the Akiyama reference, Akiyama still fails to disclose that the software data are encrypted using a key dependent on the storage medium identifier (because in Akiyama the software data are encrypted with a fixed key Kd). Therefore, Akiyama fails to teach that the formatting of the software data is performed using a function based on the storage medium identifier.

The Examiner also states "*Akiyama in fact discloses a copying system which includes a unique serial number and a storage medium identifier to form a certificate code wherein a certification key operates as a private (secret) key.*" Applicants submit that such a feature simply does not anticipate the current claims.

If one considers the embodiments of Akiyama relied upon by the Examiner (illustrated in Fig. 3(A) and 3(B) and Fig. 4), there is a source of data, which is the CD-ROM containing software programs, that are to be copied onto a storage medium (the MO disc 12) (see col. 4, lines 48-52 and col. 5, lines 21-24). The MO disc has a storage medium identifier IDk assigned uniquely to each medium (e.g. a serial number – see col 5, lines 34-36). The storage medium identifier IDk is used, together with an identifier SIDi of the software program to be written on the storage medium, to derive a certificate code CS (see col. 6, lines 1-4 and col. 4, lines 57-62, step [S2]) which is written into a predetermined region of the MO disc (see col. 4, lines 63-65, step [S3]).

The 'useful' software program data having the identifier SIDi are stored on the MO disc (after some verification that the certificate code CS is valid). They are stored in encrypted form EKd(DATA), encrypted with a fixed key Kd (see col. 6, lines 63-67 and col. 7, lines 1-3). Therefore, as shown in the schematic drawings attached to this letter, the useful software program data are always 'formatted as a function of a unique fixed key Kd' before being written on the storage medium, they are therefore not 'formatted as a function of the storage medium identifier IDk.

In view of the above, Applicants submit that Akiyama fails to disclose that digital data representative of audio and/or video content are formatted as a function of a serial number contained in a storage medium to obtain data formatted specifically for this medium before recording the formatted data onto the storage medium. Therefore, Akiyama fails to disclose every features of amended claims 1,
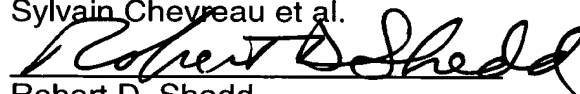
7, 12 and 13, and these claims, and the claims that depend therefrom, are not anticipated by Akiyama.

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at (609) 734-6815, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on:

_9-25-06_   _Karen Schlauch_
Date